

REFERENCE TITLE: alcoholic beverages; deregulation prevention

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HB 2697

Introduced by
Representatives Pierce, Barnes, Meza: Anderson, Brown, Gallardo, Gray C,
Jones, Konopnicki, McComish, McLain, Reagan, Stump, Weiers JP, Senators
Blendu, Flake, Martin, Rios

AN ACT

AMENDING SECTIONS 4-205.04 AND 4-243.01, ARIZONA REVISED STATUTES; RELATING
TO LIQUOR LICENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 4-205.04, Arizona Revised Statutes, is amended to
3 read:

4 4-205.04. Domestic farm winery or domestic microbrewery
5 license; issuance; regulatory provisions; retail
6 site

7 A. The director may issue a domestic farm winery or domestic
8 microbrewery license to any domestic farm winery or domestic microbrewery.
9 Each location ~~which~~ THAT engages in producing and bottling these products
10 must obtain a separate domestic farm winery or domestic microbrewery license,
11 but both such licenses may be issued for a common location. The licensee may
12 not transfer the domestic farm winery or domestic microbrewery license from
13 person to person or from location to location.

14 B. An applicant for a domestic farm winery or domestic microbrewery
15 license ~~shall~~, at the time of filing the application for the license, SHALL
16 accompany the application with the license fee. Persons holding a domestic
17 farm winery or domestic microbrewery license shall report annually at the end
18 of each fiscal year, at such time and in such manner as the director may
19 prescribe, the amount of wine or beer manufactured by them during the fiscal
20 year. If the total amount of wine or beer manufactured during the year
21 exceeds the amount permitted annually by the license, the licensee shall
22 apply for and receive an in-state producer's license.

23 C. Notwithstanding any other statute, a licensed domestic farm winery
24 may sell wine produced or manufactured on the premises in the original
25 container for consumption on or off the premises ~~and may make sales and~~
26 ~~deliveries of wine to persons licensed to sell wine under this title~~. A
27 licensed domestic farm winery may serve wine produced or manufactured on the
28 premises for the purpose of sampling the wine.

29 D. A licensed domestic farm winery is subject to ~~all~~ BOTH of the
30 following requirements:

31 1. The winery shall produce not less than two hundred gallons and not
32 more than seventy-five thousand gallons of wine annually from grapes or other
33 suitable agricultural products of which at least seventy-five per cent are
34 grown in this state. The director may allow a percentage of out-of-state
35 agricultural products greater than twenty-five per cent in wine manufactured
36 or produced by a licensed domestic farm winery if the licensed domestic farm
37 winery can demonstrate to the satisfaction of the director that sufficient
38 in-state agricultural products are not available because of an unexpected
39 failure of suitable in-state crops due to natural causes. The exemption
40 shall remain in effect only for the period of time during which such
41 shortages actually exist.

42 2. The winery may purchase and sell wine produced from a domestic farm
43 winery if the retail sale of the wine is conducted from the same site as the
44 location of the winery.

1 E. Notwithstanding any other statute, a licensed domestic microbrewery
2 may sell beer produced or manufactured on the premises for consumption on or
3 off the premises ~~and may make sales and deliveries of beer to persons~~
4 ~~licensed to sell beer under this title, including wholesalers licensed under~~
5 ~~this title.~~ A licensed domestic microbrewery may serve beer produced or
6 manufactured on the premises for the purpose of sampling the beer. A
7 licensed domestic microbrewery is subject to all of the following
8 requirements:

9 1. The microbrewery shall produce not less than ten thousand gallons
10 of beer in each year following the first year of operation.

11 2. The microbrewery shall not produce more than three hundred ten
12 thousand gallons of beer annually.

13 3. If retail operations are conducted in conjunction with the
14 microbrewery, these retail operations shall be conducted from the same site
15 as the location of the microbrewery.

16 4. The microbrewery may sell other spirituous liquor products if:

17 (a) The microbrewery holds an on-sale retail license.

18 (b) The retail sale of the spirituous liquor is on or adjacent to the
19 premises of the microbrewery.

20 F. A person who holds a domestic microbrewery license that meets the
21 requirements of this section and who is not otherwise engaged in the business
22 of a distiller, vintner, brewer, rectifier, blender or other producer of
23 spirituous liquor in any jurisdiction may hold other on-sale retail licenses.
24 The person shall purchase all spirituous liquor for sale at the other on-sale
25 retail premises from wholesalers who are licensed in this state.

26 G. The director shall adopt rules in order to administer this section.

27 Sec. 2. Section 4-243.01, Arizona Revised Statutes, is amended to
28 read:

29 4-243.01. Purchasing from other than primary source of supply
30 unlawful; definitions

31 A. It is unlawful:

32 1. For any supplier to solicit, accept or fill any order for any
33 spirituous liquor from any wholesaler in this state unless the supplier is
34 the primary source of supply for the brand of spirituous liquor sold or
35 sought to be sold and is duly licensed by the board.

36 2. For any wholesaler or any other licensee in this state to order,
37 purchase or receive any spirituous liquor from any supplier unless the
38 supplier is the primary source of supply for the brand ordered, purchased or
39 received.

40 3. Except as provided by section 4-243.02 for a retailer to order,
41 purchase or receive any spirituous liquor from any source other than any of
42 the following:

43 (a) A wholesaler who has purchased the brand from the primary source
44 of supply.

1 (b) A wholesaler who is the designated representative of the primary
2 source of supply in this state and who has purchased such spirituous liquor
3 from the designated representative of the primary source of supply within or
4 without this state.

5 (c) A registered retail agent pursuant to section 4-101.

6 ~~(d) A domestic farm winery or domestic microbrewery licensed under~~
7 ~~section 4-205.04.~~

8 B. All spirituous liquor shipped into this state shall be invoiced to
9 the wholesaler by the primary source of supply. All spirituous liquor shall
10 be unloaded and remain at the wholesaler's premises for at least twenty-four
11 hours. A copy of each invoice shall be transmitted by the wholesaler and the
12 primary source of supply to the department of revenue.

13 C. The director may suspend for a period of one year the license of
14 any wholesaler or retailer who violates this section.

15 D. Upon determination by the department of revenue that a primary
16 source of supply has violated this section, no wholesaler may accept any
17 shipment of spirituous liquor from such primary source of supply for a period
18 of one year.

19 E. For the purposes of this section:

20 1. "Primary source of supply" means the distiller, producer, owner of
21 the commodity at the time it becomes a marketable product, bottler or
22 exclusive agent of any such distributor or owner. In the case of imported
23 products, the primary source of supply means either the foreign producer,
24 owner, bottler or agent or the prime importer from, or the exclusive agent
25 in, the United States of the foreign distiller, producer, bottler or owner.

26 2. "Wholesaler" means any person, firm or corporation that is licensed
27 in this state to sell to retailers and THAT is engaged in the business of
28 warehousing and distributing brands of various suppliers to retailers
29 generally in the marketing area in which the wholesaler is located.